

Boone County Board of Zoning Appeals
May 22, 2013 – 7:00 p.m.
Lamar Meeting Room-Boone County Government Building

Members attending: Sharon Walker, June Nickels, Alan Wilhoite, Clinton Taylor and Terry Brandenburg (entered at 7:05 p.m.)

Staff attending: Rachel Cardis, Bob Clutter, Heather Shoemaker (Bob's associate) and Carla Hedrick

A. Administrative Issues

1. June Nickels opened the meeting at 7:00 p.m. by leading the pledge of allegiance and followed by introductions.
2. Determination of Quorum: 5 of 5 members present
3. Approval of Minutes for March 27th and April 24th

Alan Wilhoite made a motion to approve the minutes for the April 24th, 2013 meeting as presented. Sharon Walker seconded the motion. Motion carried 3-0, with Clinton Taylor abstaining.

Terry Brandenburg made a motion to approve the minutes for the March 27th, 2013 meeting as presented. Alan Wilhoite seconded the motion. Motion carried 3-0, with June Nickels and Clinton Taylor abstaining.

4. Approval of Agenda:
No changes

B. Old Business Public Hearings
None at this time

June reviewed the meeting process

C. New Business Public Hearings

1. 12SC-7M (V)-149 Robert & Lisa Webber; Special Exception with Minor Plat and 3 development Standard Variance requests
Rachel Cardis read the staff report.

Mike Andreoli came forward representing the Webbers. He explained that the Webbers saw the listing for the property and read how attractive a piece of property for a dream home it would be. They did some preliminary research on the property but had no idea about it needing platting. They were led to believe they could buy it and build on it

without any trouble. Then they met with staff to obtain a building permit and were informed about the ordinance requirements regarding platting and variances that would be needed for this site. Then when they started the process for platting they found out they were given the wrong legal description for the property and had to get that corrected. Mr. Andreoli stated the property seller should have had this platted prior to selling it as a buildable lot. The petitioner's understand they are asking for extraordinary circumstances to be approved and appreciate the time the Board is giving them. They paid cash for the property and are in a bind caused by the seller. The site works for building a home. During all this they were also led to believe utilities would not be too costly to obtain and then when they met with REMC they were informed it would cost about \$22,000 this is different than what the seller told them it would; he said about \$7800.

The petitioners have praised staff for their kindness and patience in working with them through this process.

The Webbers submit that the hardship is they have ground they may not be able to use and will have a civil suit with the sellers. Mr. Andreoli stated there are no drainage issues or driveway issues.

Lisa Webber came forward and apologized this has to be brought before the board. And asked the BZA for their help and thanked the staff for all their help.

No one else came forward. June Nickels closed the public hearing and opened the discussion to the board.

Terry has no questions at this time.

Clinton commented he has mixed feelings on this item. He commented on the size of the property and the wasted ground available, but he is not opposed to approving the variances; although he would not want to approve this and then the land be handed back to the previous owners. Mr. Andreoli stated the land would not be given back to the previous owners. The Webbers want to build here and live here.

Alan commented that he agrees with Clinton and that the back of the property is not tillable and more suitable for a house.

Sharon has the same mixed feelings.

Clinton asked about the utilities to the property. Lisa Webber responded that, that is when they found out the cost was \$22,000 versus what they had been told of \$7800 (which was an estimate from 7 years ago). They asked about tying into the power behind the property and they were told no the owner would not allow it.

June commented that it is an amazing piece of property and would be more suited for a home than farming.

Bob Clutter reminded the board that the Plan Commission adopts the zoning ordinance as does the County Commissioners; and that a couple of these variances are fairly recent additions to the ordinance. The BZA was created to look at the zoning ordinance and decide when deviations or exceptions from it would be appropriate. They meet the criteria for the variances, except for the hardship; and that is the BZA's decision to decide what is a hardship and if they have met it. Rachel had to follow the ordinance when writing the staff report and the board makes decisions by reading it and then listening to the petitioner's side.

Terry commented that it seems the only one harmed in this situation is the buyers (the Webbers); he asked who is harmed and is it the right thing to do to turn it down.

Rachel Cardis added that to the north is a field and the owner would like access if Mr. Andreoli would draft something giving them access to the field. The Webbers mentioned that someone is not farming but dumping items there at this time. It was decided they would contact the owners and find out the intentions and if farming was to be done they had no issues with allowing access to the field.

Clinton Taylor made a motion to approve 12SC-7M-149, approving all three (3) variances and the special exception with the following conditions: 1) applicant shall sign a right to farm agreement; 2) applicant shall sign a county drainage agreement; 3) applicant shall show a 40' buffer zone around the perimeter of the property that borders agricultural practices; and 4) ILP issuance is contingent upon final TAC approval.

Terry Brandenburg seconded the motion. Motion carried 5-0.

D. Reports, Resolutions, Communications & General Discussion

None at this time

With no further business, Terry Brandenburg motioned to adjourn at 7:45 p.m. The motion was seconded by Clinton Taylor. Motion carried 5-0.